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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/612,016   | 07/03/2003  | Lawnie Taylor        | 33327/us/2          | 5478             |
| 22204  | 7590        | 11/10/2005           | EXAMINER            |                  |
| NIXON PEABODY, LLP<br>401 9TH STREET, NW<br>SUITE 900<br>WASHINGTON, DC 20004-2128 |             |                      | BOYER, CHARLES I    |                  |
|  |             | ART UNIT             |                     | PAPER NUMBER     |
|  |             |                      |                     | 1751             |

DATE MAILED: 11/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                              |                     |  |
|------------------------------|------------------------------|---------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b>       | <b>Applicant(s)</b> |  |
|                              | 10/612,016                   | TAYLOR, LAWNIE      |  |
|                              | Examiner<br>Charles I. Boyer | Art Unit<br>1751    |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 07 July 2005.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 32 and 33 is/are allowed.
- 6) Claim(s) 1-31 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

|  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

This action is responsive to applicants' amendment and response received July 7, 2005. Claims 1-33 are currently pending.

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-4, 7-11, and 14-28 are rejected under 35 U.S.C. 102(b) as being anticipated by Matsuda et al, US 4,888,323.

Matsuda et al teach perfumes for incorporation into bleaching compositions (see abstract). An example of such a bleaching composition comprises 5% sodium hypochlorite and 1% sodium hydroxide (col. 7, example 1). With respect to the pH values presently claimed, as the reference contains the identical components in the identical proportions presently claimed, the examiner maintains the composition of the reference inherently meets these pH values. As this reference meets all material limitations of the claims at hand, the reference is anticipatory.

Applicants have attempted to obviate this rejection by the addition of the language "consists essentially of" in the claims. The examiner notes that the language "consisting essentially of" may include any unrecited ingredient which does not affect the basic and novel characteristics of the invention (see *In re Garnero*, 162 USPQ 221

Art Unit: 1751

(CCPA 1969); *In re De Lajarte*, 143 USPQ 256 (CCPA 1964); *In re Janakirama-Rao*, 137 USPQ 893 (CCPA 1963); *Ex parte Davis*, 80 USPQ 448 (PO BdPatApp 1949)). As the reference and the present invention are drawn to the same utility, that is, fabric cleansing, the examiner maintains there is not any component in the example cited above which affects the basic and novel characteristics of the present invention. Accordingly, the rejection is maintained.

3. Claims 1-4, 7-11, and 14-28 are rejected under 35 U.S.C. 102(b) as being anticipated by Haendler, US 4,929,383.

Haendler teaches fabric treatment compositions (see abstract). An example of such a treatment composition comprises 5% sodium hypochlorite and 1% sodium hydroxide (col. 8, example V). With respect to the pH values presently claimed, as the reference contains the identical components in the identical proportions presently claimed, the examiner maintains the composition of the reference inherently meets these pH values. As this reference meets all material limitations of the claims at hand, the reference is anticipatory.

Applicants have attempted to obviate this rejection by the addition of the language "consists essentially of" in the claims. The examiner notes that the language "consisting essentially of" may include any unrecited ingredient which does not affect the basic and novel characteristics of the invention (see *In re Garnero*, 162 USPQ 221 (CCPA 1969); *In re De Lajarte*, 143 USPQ 256 (CCPA 1964); *In re Janakirama-Rao*, 137 USPQ 893 (CCPA 1963); *Ex parte Davis*, 80 USPQ 448 (PO BdPatApp 1949)). As

the reference and the present invention are drawn to the same utility, that is, fabric cleansing, the examiner maintains there is not any component in the example cited above which affects the basic and novel characteristics of the present invention. Accordingly, the rejection is maintained.

4. Claims 1-11, 13-23, and 25-30 are rejected under 35 U.S.C. 102(b) as being anticipated by Nakagawa et al, US 3,929,661.

Nakagawa et al teach liquid detergent bleaching compositions (see abstract). An example of such a bleaching composition comprises 2% sodium hypochlorite and 4% sodium hydroxide wherein the composition is used to wash diapers, which are typically made of cotton (col. 5, example 4). With respect to the pH values presently claimed, as the reference contains the identical components in the identical proportions presently claimed, the examiner maintains the composition of the reference inherently meets these pH values. As this reference meets all material limitations of the claims at hand, the reference is anticipatory.

Applicants have attempted to obviate this rejection by the addition of the language "consists essentially of" in the claims. The examiner notes that the language "consisting essentially of" may include any unrecited ingredient which does not affect the basic and novel characteristics of the invention (see *In re Garnero*, 162 USPQ 221 (CCPA 1969); *In re De Lajarte*, 143 USPQ 256 (CCPA 1964); *In re Janakirama-Rao*, 137 USPQ 893 (CCPA 1963); *Ex parte Davis*, 80 USPQ 448 (PO BdPatApp 1949)). As the reference and the present invention are drawn to the same utility, that is, fabric

Art Unit: 1751

cleansing, the examiner maintains there is not any component in the example cited above which affects the basic and novel characteristics of the present invention.

Accordingly, the rejection is maintained.

5. Claims 1-3, 7-11, 13-23, and 25-27 are rejected under 35 U.S.C. 102(b) as being anticipated by Mercado, US 5,746,936

Mercado teaches liquid detergent bleaching compositions (see abstract). An example of such a bleaching composition comprises 5% sodium hypochlorite and 0.7% sodium hydroxide wherein the pH is 13 and the composition is used to wash cotton (col. 4, example 1). As this reference meets all material limitations of the claims at hand, the reference is anticipatory.

Applicants have attempted to obviate this rejection by the addition of the language "consists essentially of" in the claims. The examiner notes that the language "consisting essentially of" may include any unrecited ingredient which does not affect the basic and novel characteristics of the invention (see *In re Garnero*, 162 USPQ 221 (CCPA 1969); *In re De Lajarte*, 143 USPQ 256 (CCPA 1964); *In re Janakirama-Rao*, 137 USPQ 893 (CCPA 1963); *Ex parte Davis*, 80 USPQ 448 (PO BdPatApp 1949)). As the reference and the present invention are drawn to the same utility, that is, fabric cleansing, the examiner maintains there is not any component in the example cited above which affects the basic and novel characteristics of the present invention. Accordingly, the rejection is maintained.

Art Unit: 1751

6. Claims 1-5, 7-11, and 14-29 are rejected under 35 U.S.C. 102(b) as being anticipated by Scialla et al, US 6,120,555.

Scialla teaches liquid detergent bleaching compositions (see abstract). An example of such a bleaching composition comprises 2.5% sodium hypochlorite and 1.4% sodium hydroxide wherein the composition provides improved whiteness to fabrics without compromising on stain removal performance, the composition is in contact with a fabric for from 5 to 30 minutes, and a preferred pH value of the composition is about 13 (col. 8, example 5; claim 4; and col. 7, lines 3-6). As this reference meets all material limitations of the claims at hand, the reference is anticipatory.

Applicants have attempted to obviate this rejection by the addition of the language "consists essentially of" in the claims. The examiner notes that the language "consisting essentially of" may include any unrecited ingredient which does not affect the basic and novel characteristics of the invention (see *In re Garnero*, 162 USPQ 221 (CCPA 1969); *In re De Lajarte*, 143 USPQ 256 (CCPA 1964); *In re Janakirama-Rao*, 137 USPQ 893 (CCPA 1963); *Ex parte Davis*, 80 USPQ 448 (PO BdPatApp 1949)). As the reference and the present invention are drawn to the same utility, that is, fabric cleansing, the examiner maintains there is not any component in the example cited above which affects the basic and novel characteristics of the present invention. Accordingly, the rejection is maintained.

7. Claims 1-11, 14-23, and 25-30 are rejected under 35 U.S.C. 102(b) as being anticipated by Jimenz Carrillo et al, US 6,204,235.

Jimenz Carrillo et al teach liquid detergent bleaching compositions (see abstract).

An example of such a bleaching composition comprises 1% sodium hypochlorite and 1% sodium hydroxide (col. 10, examples 1-3). As this reference meets all material limitations of the claims at hand, the reference is anticipatory.

Applicants have attempted to obviate this rejection by the addition of the language "consists essentially of" in the claims. The examiner notes that the language "consisting essentially of" may include any unrecited ingredient which does not affect the basic and novel characteristics of the invention (see *In re Garner*, 162 USPQ 221 (CCPA 1969); *In re De Lajarte*, 143 USPQ 256 (CCPA 1964); *In re Janakirama-Rao*, 137 USPQ 893 (CCPA 1963); *Ex parte Davis*, 80 USPQ 448 (PO BdPatApp 1949)). As the reference and the present invention are drawn to the same utility, that is, fabric cleansing, the examiner maintains there is not any component in the example cited above which affects the basic and novel characteristics of the present invention.

Accordingly, the rejection is maintained.

8. Claims 1-5, 7-11, and 14-29 are rejected under 35 U.S.C. 102(b) as being anticipated by Scialla et al, US 6,120,555.

Scialla et al teach a method of treating fabrics with an aqueous hypochlorite composition (see abstract). An example of said composition comprises 2.5% NaOCl, 1.4% NaOH, and the balance water wherein the composition provides improved whiteness to fabrics without compromising on stain removal performance, the composition is in contact with a fabric for from 5 to 30 minutes, and a preferred pH value of the composition is about 13 (col. 8, example 5; claim 4; and col. 7, lines 3-6). As this reference meets all material limitations of the claims at hand, the reference is anticipatory.

Applicants have attempted to obviate this rejection by the addition of the language "consists essentially of" in the claims. The examiner notes that the language "consisting essentially of" may include any unrecited ingredient which does not affect the basic and novel characteristics of the invention (see *In re Garnero*, 162 USPQ 221 (CCPA 1969); *In re De Lajarte*, 143 USPQ 256 (CCPA 1964); *In re Janakirama-Rao*, 137 USPQ 893 (CCPA 1963); *Ex parte Davis*, 80 USPQ 448 (PO BdPatApp 1949)). As the reference and the present invention are drawn to the same utility, that is, fabric cleansing, the examiner maintains there is not any component in the example cited above which affects the basic and novel characteristics of the present invention. Accordingly, the rejection is maintained.

Claims 1-3, 7-11, 13-27 are rejected under 35 U.S.C. 102(b) as being anticipated by Agostini et al, US 5,843,190.

Agostini et al teach a method of treating fabrics with an aqueous hypochlorite composition (see abstract). An example of said composition comprises 5% NaOCl, 0.7% NaOH, and the balance water wherein the pH is 13 and the composition is used to treat stained white cotton fabrics (col. 5, example 2). As this reference meets all material limitations of the claims at hand, the reference is anticipatory.

Applicants have attempted to obviate this rejection by the addition of the language "consists essentially of" in the claims. The examiner notes that the language "consisting essentially of" may include any unrecited ingredient which does not affect the basic and novel characteristics of the invention (see *In re Garnero*, 162 USPQ 221 (CCPA 1969); *In re De Lajarte*, 143 USPQ 256 (CCPA 1964); *In re Janakirama-Rao*, 137 USPQ 893 (CCPA 1963); *Ex parte Davis*, 80 USPQ 448 (PO BdPatApp 1949)). As the reference and the present invention are drawn to the same utility, that is, fabric cleansing, the examiner maintains there is not any component in the example cited above which affects the basic and novel characteristics of the present invention. Accordingly, the rejection is maintained.

Claims 1-5, 7-11, and 14-22, and 25-29 are rejected under 35 U.S.C. 102(b) as being anticipated by Argo et al, US 5,731,276.

Argo et al teach a pre-wash treatment for laundry applications (see abstract). An example of said composition comprises 1.57% NaOCl, 0.8% NaOH, and the balance water (col. 12, table 1). As this reference meets all material limitations of the claims at hand, the reference is anticipatory.

Applicants have attempted to obviate this rejection by the addition of the language "consists essentially of" in the claims. The examiner notes that the language "consisting essentially of" may include any unrecited ingredient which does not affect the basic and novel characteristics of the invention (see *In re Garnero*, 162 USPQ 221 (CCPA 1969); *In re De Lajarte*, 143 USPQ 256 (CCPA 1964); *In re Janakirama-Rao*, 137 USPQ 893 (CCPA 1963); *Ex parte Davis*, 80 USPQ 448 (PO BdPatApp 1949)). As the reference and the present invention are drawn to the same utility, that is, fabric cleansing, the examiner maintains there is not any component in the example cited above which affects the basic and novel characteristics of the present invention. Accordingly, the rejection is maintained.

#### ***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 12 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over any of the references cited above.

The cited prior art is relied upon as set forth above. As all of the references above are fabric detergents/stain removers, it is obvious to use them on any stain which may be present on fabrics. With respect to the kit of claim 31, all of the references above teach fabric detergents which are formed by mixing together

components which were initially separate. It is obvious to add a sodium hydroxide solution to another solution for the purposes of pH modification and so meet this claim limitation.

***Allowable Subject Matter***

11. Claims 32 and 33 are allowed.

check dp on claims 32 and 33 and if that's ok, mark them allowable

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles I. Boyer whose telephone number is 571 272 1311. The examiner can normally be reached on M-F 9:30 to 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta can be reached on 571 272 1316. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Charles I Boyer

